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TOWN OF DUXBURY



BOARD OF APPEALS

DUXBURY BOARD OF APPEALS

MEETING MINUTES

February 13, 2020 @ 7:30 p.m.

ATTENDANCE: Wayne Dennison, Kathleen Muncey, Freeman Boynton Jr., & Emmett Sheehan

Other persons present at the hearing: Scott Lambiase, Director of Municipal Services

CALL TO ORDER: Wayne Dennison

ADMINISTRATIVE

- **ZONING RECODIFICATION AND PROPOSED BY LAW CHANGES:** *The Board Members discussed with The Planning Director the proposed changes to the Zoning Board of Appeals' application packet materials, the Town's By-law & the Zoning Board of Appeals' administrative rules as well as presented the proposed Stormwater bylaws and guidelines.*
- *Freeman Boynton Jr. moved to approve the meeting minutes from January 28, 2020. Emmett Sheehan seconded. All in favor 4-0.*
- *Emmett Sheehan moved to approve the meeting minutes from September 26, 2019. Freeman Boynton Jr. seconded. All in favor 4-0.*

ADMINISTRATIVE

ZONING RECODIFICATION AND PROPOSED BY LAW CHANGES: *The Board Members discussed with The Planning Director the proposed changes to the Zoning Board of Appeals' application packet materials, the Town's By-law & the Zoning Board of Appeals' administrative rules as well as presented the proposed Stormwater bylaws and guidelines.*

- Valerie Massard, the Planning Director for the Town of Duxbury, addresses the Board, stating she has started the recodification process. She mentions that there was a committee formed to research, the Zoning Bylaw Review Committee, also referred to as "ZBRC", and proceeds to go over the history of the Board and their report pertaining to the Duxbury Protective Bylaws. The report lists over one hundred issues and since the ZBRC disbanded, the report and issues listed have been sent to the Planning Board to address. Valerie Massard continues, the Planning Board decided to look at the comprehensive plan first, before the recodification. The Planning Board decided to create a use table in reference to Article 400. There are two to three definitions that are unclear and out of date, so they came up with substitute language.
- Wayne Dennison states so you're proposing two Bylaw changes at Town Meeting this year
- Valerie Massard states yes
- Wayne Dennison responds and one of which consists of a use table
- Valerie Massard responds yes
- Wayne responds which involves a redefinition of certain terms
- Valerie Massard responds just a few, a few uses
- Wayne Dennison states what are the terms
- Valerie Massard responds one was the definition of "Dry Cleaning"; we don't have drycleaning, so we looked to Town Counsel and Mr. Lambiase and the Planning Board, we talked about different ideas, different language that was more suitable to today's times. The terms are more about drycleaning and drop off, than about laundry services, so we don't have laundry services. So, whether it was a good idea to make some minor tweaks to that, we thought it was...
- Wayne Dennison states, so, at least as I understand it, in my infirm way, drycleaning involves a series of environmentally volatile chemicals
- Valerie Massard states right, and we don't do that in Duxbury. We have drop off services
- Kathleen Muncey states do we prohibit it
- Valerie Massard states I think we prohibit it by not listing it. But the language that we have in the new Bylaw, as it is today...
- Wayne Dennison states would it permit people to do the environmentally dangerous thing or not
- Valerie Massard states it's so outdated, it's not clear on how they operate drycleaning today
- Freeman Boynton states I would think that the Board of Health would regulate something like that
- Valerie Massard states we don't have it in town and we didn't change it to create it, all we did was try to clarify

- Wayne Dennison states but, if someone wanted to put it in, a Commercial establishment that had forty washing machines, so people could do their washing...
- Scott Lambiase states I do believe we have an allowance for that, a special permit, but I do believe it would be pretty prohibitive due to water use etc. but currently, I do believe we allow for a laundrymat
- Freeman Boynton Jr. states it's 400 gallons a machine
- Valerie Massard states it's pretty specific to one definition
- Scott Lambiase states yeah, really, it was more housekeeping that we were looking at, uses that nobody is going to establish at this point
- Wayne Dennison states so, you dealt with the drycleaning issue? What are the other definitions you're proposing to change?
- Valerie Massard states one of them, Town Counsel made the recommendations for 3 or 4. I don't have the material in front of me.
- Wayne Dennison states so there are persons in town who are deeply committed to how the zoning works, including former Members of this Board, have they provided any input?
- Valerie Massard states not until last evening; as I say, this has been out there for months. But they did arrive last night with some sweeping concerns. The Board is trying to meet with them; specifically the table with special permits are listed in the NB Districts
- Wayne Dennison states I don't understand what you mean in versus?
- Valerie Massard states we got into a lengthy debate, we used footnotes, yes =allowed by special permit...I thought I gave all of this to Angela to distribute, so I am a little confused
- Wayne Dennison states you did in fact provide it, but I will be honest with you, the granularity of that issue would be lost on me
- Valerie Massard explains the footnotes and what the Planning Board came up with; we had opposition that since we are rewriting the use table without rewriting the uses, we shouldn't waste Town Meetings time. Valerie then explains that a little bit at a time with the uses, that is what is in the warrant. The only other change in the use table is that gas station has site plan criteria in the use, this should be in the Bylaw rather than in the use.
- Wayne Dennison asks why does it matter
- Valerie Massard responds umm, because...
- Wayne Dennison states you can tell me it's more elegant to do it in a more particular way
- Valerie Massard states what we're trying to do is, it's been written by so many different people over so many years, we're trying to help the deplivative language in the Bylaw.
- Wayne Dennison states here's my concern, I agree with you, but it has been written and rewritten by persons using good will, since the Bylaw was passed. So you have picked two things for Town Meeting, one being the use and some definitions, what is the other thing?
- Valerie Massard states the other thing is trying to streamline the language. Both of things are in the Zoning Bylaw Review Committees recommendations, it could take years and years, so we're trying to digest that and cull out an approach that we can bring to the Town Meeting, we're picking two things to start with, one is putting the uses into a table and second is streamlining, which is where we went through the Zoning Bylaw, got rid of repetition referencing old documents. Old maps are reference throughout Zoning Bylaw. There is a reference to the ZBA being the only Special Permit granting authority in town and doesn't reference the Planning Board as the other Special Permit granting authority. These are housekeeping items...
- Wayne Dennison states well, special permit granting a limited number of permits

- Valerie Massard states correct, and the Bylaw doesn't make reference to them in article 900 and they should, so again cleaned Bylaw
- Wayne Dennison states I'm just flat out asking, why is that confusing?
- Valerie Massard states if I'm going to the Planning Board for a permit and I want to find out the process, there's no mention in the Bylaw
- Wayne Dennison states if the Bylaw states the Planning Board is a permit granting authority and there's a Bylaw that tells you how to get a special permit, what's the issue?
- Valerie Massard states well, the special permit language only speaks to the Board of Appeals right now
- Wayne Dennison states ok, ok
- Valerie Massard states it's a house keeping item
- Wayne Dennison states the language you use is streamlining
- Valerie Massard replies yes
- Wayne Dennison states you're addressing relatively complicated concepts at Town Meeting, so what folks chose to do is pick two, you want a use table and this streamlining.
- Valerie Massard states that in order to make it easier to talk about the more policy related issues we move forward.
- Wayne Dennison replies ok, alright
- Freeman Boynton Jr. states so, there's no policy changes proposed
- Valerie Massard states right
- Wayne Dennison states the problem is, no matter how you rewrite the Zoning Bylaw, even if you do not intend to do it, you've made a policy change
- Valerie Massard states we know that, we've been tasked with this by Town Meeting. We can choose any object from the ZBRC's report and have the same discussion. So, we chose where we thought we could start. We could choose another option, I'm wide open to peoples suggestions but I'm working with the Planning Board and Town Counsel.
- Wayne Dennison states and this is not by way of criticism, it's by way around this issue, these are the two issues that the Planning Board thinks are the most important to resolve in the Bylaw?
- Valerie Massard states no, one bite of the apple at a time
- Kathleen Muncey states as opposed to ...we know that it's not going to work if we recodify the whole thing
- Wayne Dennison states but the thing is, for example, the way we permit piers, why not pick piers and rewrite.
- Valerie Massard states if you have a top priority, please recommend to the Planning Board, so we have a priority idea
- Valerie Massard explains what's been happening with Town Counsel advice with priority as they are trying to figure out how to get rid of ... this will take years
- Emmett Sheehan states why wouldn't one house be one lot...
- Wayne Dennison states I don't mean to diminish the complexity of this, because it is complex. I fully believe even minor changes result in policy changes. If you're the Planning Board, you have to choose what is most important to you.
- Valerie Massard states yes, but I'm not the Planning Board.
- Wayne Dennison states but you're the voice of the Planning Board
- Valerie Massard states I'm not presenting the Planning Board's position or priorities
- Wayne Dennison states the problem I see, the housekeeping will have unintended effects, so why isn't this going to get IP'd

- Valerie Massard states I've already mentioned this to my Board, that's their decision not mine
- Kathleen Muncey states it is frustrating but you have to start somewhere; it brings a level of suspicion that we're going to change the Town
- Wayne Dennison states if the Planning Board wants to do something, explain it, bring it to town counsel and hear yay or nay
- Valerie Massard states how do we tackle the ZBRC report with over 100 issues.
- Kathleen Muncey states interesting business light went through smoothly
- Wayne Dennison states because people understood what it was talking about
- Wayne Dennison states we have a town planner
- Valerie Massard states the goal here is if someone wants to petition the Planning Board, you meet with the Planning Director
- Wayne Dennison states there is one now, where enough citizens petition...
- Valerie Massard states this year we have two citizen petitions where they didn't meet with the planner or director or town manager
- Wayne Dennison asks what is the zoning petition
- Valerie Massard states something about notifications for building permits to all the neighbors
- Freeman Boynton Jr states any building permit
- Valerie Massard states yes
- Freeman Boynton Jr states wow
- Kathleen Muncey asks how does that even happen
- Wayne Dennison states that's not a bad idea
- Valerie Massard states we're going all over the map, I'm not here to discuss what my role is as a planner. I'm not here to talk about all of the other things I'm doing and I don't have the staff to do what you're proposing-to take up anyone's ideas and help write their zoning articles
- Kathleen Muncey states it's hodge podge
- Wayne Dennison states it's democracy
- Valerie Massard states I feel like the dialogue has really gotten away from me here
- Kathleen Muncey states I am sorry
- Wayne Dennison states thank you very much for presenting...
- Valerie Massard states I'm not finished
- Wayne Dennison states ok
- Wayne Dennison states you can continue
- Valerie Massard states so part of the discussion I shared with Angeal, is the streamlining to take an approach where we move administrative issues out of the Bylaw, which is entirely article 800 and move that to rules and regs. And move that to the Zoning Board that administers the Special permits for planned developments. I think I counted 8 different definitions for what a site plan is... 14 sentences for what we want in a site plan. Came up with a package for both Boards to accept.
- Wayne Dennison states how quick do we need to act on this?
- Valerie Massard states I've been trying to get on your Agenda for month, but everybody is really busy. So you have that, if we do it this year or next year, so be it. The Planning Board made comments that Town Counsel are reviewing
- Wayne Dennison states but that's on for town meeting?
- Valerie Massard states yes, that's why I'm here, so that the two Boards would adopt that site plan definition as rules and regs in addition to the planned development storm water Bylaws,

we prepared a flyer and lastly, MS4 permit, E{A which incured upon the town re: storm water. Most of the districts have adopted a storm water Bylaw and an elicit discharge Bylaw. Department heads put on general Bylaws for town meeting required under permit ES4 standard-no new permitting required

- Emmett Sheehan states example?
- Valerie Massard states yeah, so 15,000 sq ft project
- Wayne Dennison asks footprint?
- Valerie Massard states yes, like a CVS for example, filling in lots due to flooding. Series of individuals, one only needed a building permit, we went out and discovered three properties doing this, flooding a public way. Other examples, when someone elevates their home, changing the drainage is detrimental to surroundings. So the goal is to talk about first, the 15,000 sq. ft.
- Wayne Dennison states 15,000 sq. ft. of what
- Freeman Boynton Jr states of disturbance
- Wayne Dennison states ok
- Freeman Boynton Jr states that's not a very big area
- Valerie Massard states other towns use smaller footprints, we're trying to pick a middle ground
- Wayne Dennison states grading Bylaw is 30,000
- Kathleen Muncey states what's the tree removal, same?
- Freeman Boynton Jr states yeah, it's the same
- Valerie Massard states so if you're triggering one of those thresholds when you are applying for your Building permit, the Building Department will say "hey...", the departments triggered would meet and that would make that part of their review with permitting
- Wayne Dennison states so, the example was a cvs
- Valerie Massard states well, for size
- Wayne Dennison states ok, so the building that happens in this town is housing
- Valerie Massard states yes, that's what I'm describing
- Wayne Dennison states isn't there nuisance and other laws
- Valerie Massard states yes, they can sue each other
- Scott Lambiase states we don't have options on this, we have to put this in deeded by the State, whether we like it or not
- Wayne Dennison states oh, so the state requires us to do this
- Valerie Massard states yes
- Wayne Dennison states so for a series of new house lots, how many will this trigger?
- Valerie Massard replies for this town, most
- Scott Lambiase states it isn't much more than what's already required may be an added expense for a review
- Valerie Massard states this prevents flooding and lawsuits down the road.
- Wayne Dennison states so what we can control is the size limits
- Valerie Massard states yes that's true
- Kathleen Muncey states how many buildable lots are left in the town?
- Valerie Massard states very few, people throughout town that are trying to subdivide, they're talking about it. Business districts are built out, we have support of the Planning Board and Conservation Commission
- Wayne Dennison states oh, for the 15,000 sq. ft.
- Valerie Massard states yes

- Wayne Dennison states I'm going to tell you my visceral reaction, if we describe this as a cvs
- Valerie Massard states I was using that as an exmaple! I'm done with that...it's an average
- Freeman Boynton Jr states how much...
- Emmett Sheehan states but a flat pool, you're not engineering...
- Valerie Massard states there are several exeptions, definitions of certain landscaping
- Wayne Dennison states exepmt, what are you talking about?
- Valerie Massard states again, I thought you received this in the packets
- Wayne Dennison states I'll be candid with you, nobody has memorized the material you submitted
- Valerie Massard states neither have I...so for example, a newly approved subdivision, a lot in there is exempt, since it's already gone through the review
- Wayne Dennison states part of this Board, we have practical people, is this a good idea...
- Valerie Massard states I have the exeptions, there are ten: construction on a lot with an approved site plan, already received, landscaping for the home, removal of less than 100 cubic yards etc etc, emergency repair
- Wayne Dennison states thank you, my interpretation is that these are things that we've already regulated or really minor things
- Freeman Boynton Jr states so I trucked in 30 truckloads at 10am plus \$2,000 plus a site plan?
- Scott Lambiase states but we have to do this
- Freeman Boynton Jr states can it be less restrictive, can it be 30,000
- Valerie Massard states yes, the short answer is yes
- Wayne Dennison states how often is publi way an issue
- Valerie Massard states enough, takes up the town managers time
- Discusssion ensues regarding 15,000 and 30,000
- Valerie Massard states it's not ideal with 30,000 day to day, it takes a lot of our resources.
- Valerie Massard states I am done
- Wayne Dennison states alright, do we have minutes to approve